

1 C. "Reservation" means all lands within the boundaries of the reservations for Little Traverse
2 as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any
3 lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the
4 event that the 1836 reservation is determined to include lands which are not included within the
5 1855 reservation, plus any lands outside of those boundaries which are now or in the future
6 declared to be Little Traverse reservation by the Department of the Interior or an act of Congress.

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8 D. "Tribal Citizen" means a person is who an enrolled member of the Little Traverse Bay
9 Bands of Odawa Indians.

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11 E. "Tribal Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians.

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13 F. "Tribe", "Tribal" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians.

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16 **SECTION IV. JURISDICTION**

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18 A. Tribal Court shall have jurisdiction if the action involves a grandchild and the petition is
19 filed by a grandparent requesting a court order for Grandparent and Grandchild Visitation within
20 the Tribe's Reservation.

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22 B. Jurisdiction once exercised by the Court is continuing and exclusive unless terminated by
23 the Court. Full faith and credit shall apply to the Court's order for Grandparent and Grandchild
24 Visitation.

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27 **SECTION V. CAUSE OF ACTION**

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29 A. A cause of action is created when a grandparent seeks Grandparent and Grandchild
30 Visitation involving a grandchild under one (1) or more of the following circumstances:

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32 1. An action for divorce, separate maintenance, or annulment involving the
33 grandchild's parents is pending before the court.

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35 2. The grandchild's parents are divorced, separated under a judgment of separate

1 maintenance, or have had their marriage annulled.

2
3 **3.** The grandchild's parent who is a grandchild of the grandparents is deceased.

4
5 **4.** The grandchild's parents have never been married, they are not residing in the
6 same household, and paternity has been established by the completion of an
7 acknowledgment of parentage, or by a determination by a court of competent jurisdiction
8 that the individual is the father of the grandchild.

9
10 **5.** The legal custody of the grandchild has been given to a person other than the
11 grandchild's parent, or the grandchild is placed outside of and does not reside in the home
12 of a parent, with the exception of a placement of a grandchild for adoption which
13 terminates the right of a grandparent to commence an action for Grandparent and
14 Grandchild Visitation.

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16 **B.** A court shall not permit a parent of a father who has never been married to the
17 grandchild's mother to seek an order for Grandparent and Grandchild Visitation, unless the father
18 has completed an acknowledgment of parentage, or the father has been determined to be the
19 father by a court of competent jurisdiction.

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21 **C.** The court shall not permit the parent of a putative father to seek an order for Grandparent
22 and Grandchild Visitation unless the putative father has provided substantial and regular support
23 or care in accordance with the putative father's ability to provide the support or care.

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25 **D.** Adoption of a grandchild by a stepparent, does not terminate the right of the parent of a
26 deceased parent of the grandchild to commence an action for Grandparent and Grandchild
27 Visitation with that grandchild.

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30 **SECTION VI. FILING OF PETITION**

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32 **A.** A grandparent seeking a Grandparent and Grandchild Visitation order shall commence
33 an action for Grandparent and Grandchild Visitation, by filing a petition with Tribal Court.

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35 **B.** The petition for Grandparent and Grandchild Visitation shall be accompanied by an
3 Grandparent and Grandchild Visitation as sponsored by Councilor Tamara Kiogima
Treasurer Marcella Reyes___

1 affidavit setting forth facts supporting the requested order.
2

3 **C.** The grandparent shall give notice of the filing to each person who has legal custody of
4 the grandchild.
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6 **D.** A party having legal custody may file an opposing affidavit.
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8 **E.** By the Court on its own motion, the Court may utilize alternative dispute resolution or
9 Peacekeeping, or may hold a hearing. At the hearing, parties submitting affidavits shall be
10 allowed an opportunity to be heard.
11

12 **F.** The grandparent must show that they have established custodial environment for the
13 grandchild.
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15 **G.** In order to give deference to the decisions of fit parents, it is that a fit parent's decision to
16 deny Grandparent and Grandchild Visitation does not create a substantial risk of harm to the
17 grandchild's spiritual, emotional, mental, physical development, and preserve interest in the
18 culture, history and traditions of the Tribe. To rebut the presumption, a grandparent filing a
19 petition must prove by a preponderance of the evidence that the parent's decision to deny
20 Grandparent and Grandchild Visitation creates a substantial risk of harm to the grandchild's
21 spiritual, emotional, mental, physical development and preserve interest in the culture, history
22 and traditions of the Tribe. If the grandparent does not overcome the presumption, the court shall
23 dismiss the petition.
24

25 **H.** If both fit parents sign an affidavit stating that they oppose an order for grandparenting
26 time, the court shall dismiss petition seeking an order for Grandparent and Grandchild Visitation.
27 This does not apply if one (1) of the fit parents is a stepparent who adopted a grandchild and the
28 grandparent seeking the order is the natural or adoptive parent of a parent of the grandchild who
29 is deceased or whose parental rights have been terminated.
30

31 **I.** If the court finds that a grandparent has met the standard for rebutting the presumption of
32 preponderance of the evidence, the court shall consider whether it is in the best interests of the
33 grandchild to enter an order for Grandparent and Grandchild Visitation. If the court finds by a
34 preponderance of the evidence that it is in the best interests of the grandchild to enter a
35 Grandparent and Grandchild Visitation order, the court shall enter an order providing for

1 reasonable grandparenting time of the grandchild by the grandparent by general or specific terms
2 and conditions.

3
4 **J.** In determining the best interests of the grandchild, the court shall consider all of the
5 following:

- 6
7 **1.** The love, affection, and other emotional ties existing between the grandparent and
8 the grandchild.
- 9
10 **2.** The length and quality of the prior relationship between the grandchild and the
11 grandparent, the role performed by the grandparent, and the existing emotional ties of the
12 grandchild to the grandparent.
- 13
14 **3.** The grandparent's moral fitness.
- 15
16 **4.** The grandparent's mental and physical health.
- 17
18 **5.** The grandchild's reasonable preference, if the court considers the grandchild to be
19 of sufficient age to express a preference.
- 20
21 **6.** The effect on the grandchild of hostility between the grandparent and the parent of
22 the grandchild.
- 23
24 **7.** The willingness of the grandparent, except in the case of abuse or neglect, to
25 encourage a close relationship between the grandchild and the parent or parents of the
26 grandchild.
- 27
28 **8.** Any history of physical, emotional, or sexual abuse or neglect of any grandchild
29 by the grandparent.
- 30
31 **9.** Whether the parent's decision to deny, or lack of an offer of, grandparenting time
32 is related to the grandchild's well-being or is for some other unrelated reason.
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1
2 The Court shall make a record of its analysis and findings including the reasons for granting or
3 denying a Grandparent and Grandchild Visitation petition.
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6 **SECTION X. SEVERABILITY**

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8 If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason,
9 held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be
10 deemed a separate, distinct and independent provision and such holding shall not affect the validity
11 of the remaining portions thereof.
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14 **SECTION XI. EFFECTIVE DATE**

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16 Effective upon signature of the Executive or thirty (30) days from Tribal Council approval
17 whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override
18 of the veto.
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21 **CERTIFICATION**